

# **NORFOLK CIRCUIT COURT**

**George E. Schaefer, Clerk**



## **HABITUAL OFFENDER BROCHURE**

Rev 5/2006

## **PETITION FOR RESTORATION OF DRIVING PRIVILEGE**

Persons Previously Declared a Habitual Offender  
(Virginia Code Section 46.2-358 through 46.2-361)

and/or

Persons Convicted of Driving While Intoxicated – Third Offense  
(Virginia Code Section 46.2-391)

Any person declared to be a habitual offender or whose license to operate a motor vehicle has been revoke in the Commonwealth of Virginia may, after expiration of the applicable statutory period, petition the Court in which he/she was found to be a habitual offender or the circuit court of the county/city in which he resides to restore his privilege to drive a motor vehicle in the Commonwealth of Virginia.

You must be eligible to file a Petition for Restoration or for a Restricted License. To determine if you are eligible to file a Petition for Restoration or Restricted License you must obtain a transcript of your driving record from the Division of Motor Vehicles.

Restoration of a petitioner's privilege to drive is a civil process by which an individual requests the COURT return his/her right to hold a driver's license after that right has been taken away by a Court of competent jurisdiction or DMV. This should be distinguished from suspension, which does not remove the right to hold a license but removes the privilege to drive.

You may contact the Division of Motor Vehicles at:  
1-866-DMV-LINE (1-866-368-5463)  
or visit the internet sites at  
[WWW.DMV.STATE.VA.US](http://WWW.DMV.STATE.VA.US)

## **FILING YOUR PETITION**

- When a petitioner lives in Virginia and was **DETERMINED** a Habitual Offender by DMV then he/she shall file a petition in the Circuit Court of the city where they reside.
- If a petitioner lives in Virginia and was **ADJUDICATED** a Habitual Offender then he/she may either file in the Circuit Court of the city where they reside, or in the Circuit Court where they were adjudicated.
- If a petitioner resides out-of-state and he/she was **DETERMINED** to be a Habitual Offender by DMV they **MUST** file a petition in the Circuit Court for the city of Richmond.
- If the petitioner resides out-of-state and was **ADJUDICATED** a Habitual Offender he/she must file a petition in the Circuit Court of the city in which they were adjudicated.

**Filing fee- \$79.00 for each petition**

**Service fee - \$12.00 for service on DMV**

**\$12.00 for service on Commonwealth Attorney's Office**

### ***What must be filed?***

- Petition for Restoration setting forth the legal basis for restoration: An original and 2 copies of the Petition must be filed.

Petitions are available in the Clerk's Office or may be accessed on the internet at

<http://www.courts.state.va.us/forms/circuit/home.html>.

### ***If you have been adjudicated as a Habitual Offender, you must submit:***

Petition for Restoration of Driving Privilege (Habitual Offender) - Form CC1465(B)

### ***If you are a habitual offender & you have been convicted of Driving While Intoxicated – Third Offense, you must submit:***

Petition for Restoration of Driving Privilege (Habitual Offender) - Form CC1465(B)

Petition for Restoration of Driving Privilege (Third Offense) – Form CC1470

### ***If you are NOT a habitual offender, but have been convicted Driving While Intoxicated – Third Offense, you must submit:***

Petition for Restoration of Driving Privilege (Third Offense) – Form CC1470

## **RESTORATION FOR FINES AND COSTS ONLY**

In case a wherein the petitioner's predicates do not include DUI's or conviction while under "court ordered suspension/supervision", but Habitual Offender status is based SOLELY on non-payment of court cost and fines, the petitioner shall be granted full restoration once all fines and costs are paid.

Prior to the Petitioner's trial date it is important for the petitioner to obtain a compliance summary from DMV. The compliance summary shows the Court and Commonwealth that all outstanding costs and fines have been paid in full.

**NOTE: JUDGMENT LIENS ARE NOT THE SAME AS OUTSTANDING COURT COST AND FINES.**

## **DUI RESTORATION**

If you are filing a Petition based on having been convicted of Driving While Intoxicated – Third Offense, or if your Habitual Offender determination was based at least in part on an offense of Driving While Intoxicated, you must obtain a Virginia Alcohol Safety Action Program (VASAP) evaluation. If the evaluation report is unavailable at the time of filing, the report must be submitted to the court at least ten days prior to the hearing date. The evaluation must be dated no earlier than ninety (90) days before the hearing date. To obtain a VASAP evaluation, you must contact:

**Judy Cole  
Chesapeake Bay ASAP  
868 N. Newtown Road  
Virginia Beach VA  
(757) 552-1800**

A petitioner shall wait five years from his/her adjudication/determination for restoration of **full** driving privileges when Habitual Offender status is based on one or two DUI offenses.

The petitioner may be granted a **restricted** license after three years AND upon completion of an evaluation AND recommendation from Chesapeake Bay ASAP (46.2-360, 361 and 391).

Before a petition for a restricted license or full restoration shall be granted, Chesapeake Bay ASAP MUST evaluate a petitioner and prepare a recommendation to be submitted to the Court (46.2-360, 361, and 390)

ONCE PETITIONER IS GRANTED A RESTRICTED LICENSE HE/SHE MUST FULLY COMPLY WITH ALL ASAP REQUIREMENTS, INCLUDING, BUT, NOT LIMITED TO ABSTINENCE FROM ALCOHOL/DRUGS, IN ORDER TO MAINTAIN THEIR RESTRICTED DRIVING PRIVELEGE. NON-COMPLAINEE SHALL RESULT IN THE COMMONWEALTH IMMEDIATLEY RECOMMENDING THAT THE PETITION BE DISMISSED.

Petitioner MUST have all court cost and fines paid in order to obtain his/her driving privileges whether full or restricted.

### ***SCHEDULING A HEARING***

If the petition is hand delivered to the Clerk's Office, the hearing date will be assigned to the petitioner at the time the petition is filed. The hearing date will be approximately 45 days from the date of the filing of the petition. If the petition is mailed to the Clerk's Office, the hearing date will be assigned and the petitioner notified by mail.

***If the Court grants a restricted license, the Judge will sign the Order granting the restricted license and the Clerk's Office will prepare the Restricted License Form. The completed Restricted License will then be submitted to the Judge that granted the petition for signature.***